

June 22, 2016

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Las Vegas, Nevada 89101

RE: Report concerning improper governmental action pursuant to NRS 289.110

District Attorney Wolfson:

Nevada Revised Statute 289.110 states in pertinent part:

1. A peace officer may disclose information regarding improper governmental action by filing a report with:

(a) The district attorney of the county in which the improper governmental action occurred; or

(b) The Attorney General if the district attorney referred to in paragraph (a) is involved in the improper governmental action.

2. Upon the filing of a report pursuant to subsection 1, the district attorney or Attorney General may investigate the report and determine whether improper governmental action did occur. Upon the completion of the investigation the district attorney or Attorney General:

(a) If the district attorney or Attorney General determines that improper governmental action did occur, may prosecute the violation. The Attorney General may prosecute such a violation if the district attorney fails or refuses so to act.

(b) Shall notify the peace officer who filed the report of the results of the investigation.

This letter should be deemed a report concerning improper governmental action by the Clark County School District and its Police Department with regard to Detective Christopher J. Klemp. Detective Klemp has been in charge of the Police Department's Bureau of Professional Standards and has been solely responsible for the Department's Internal Affairs function. Detective Klemp has been repeatedly dishonest under circumstances which would be grounds to terminate a police officer, and deem them a *Brady* officer, in any other department. However, the School District and its Police Department have refused to take appropriate action.

In 2014 School District Police Officer Jason Martin received a written reprimand in connection with a use of force incident. The Internal Investigation was self-initiated by Detective Klemp. The Police Officers Association of the Clark County School District ("POA") requested Arbitration. Pursuant to NRS 289.080(8) Officer Martin and his representative, POA Vice

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President Mike Thomas, were entitled to the entire Internal Affairs file. Detective Klemp was the sole custodian of that file including the "Blue Team" software utilized for documenting use of force incidents.

In connection with the arbitration on behalf of Officer Martin on December 16, 2014, Detective Klemp testified falsely under oath. He further produced Blue Team records which were knowingly incomplete so as to withhold exculpatory evidence.

On pages 80-85 of his arbitration testimony, Klemp testified that Sergeant Valdez' role in connection with the Blue Team records was simply to discuss issues such as typographical errors. When pressed as to whether Officer Martin's Supervisors approved the use of force, Klemp refused to acknowledge that they had.

Following Klemp's testimony, the POA was able to obtain those portions of the Blue Team records which Detective Klemp withheld. Those portions of the Blue Team Records document that Officer Martin's Sergeant, Robert Valadez, and his Lieutenant, Loren Johnson, both found that the use of force was within the guidelines of CCSDPD General Order 650 (Use of Force).

Additionally, during his sworn testimony under oath at the arbitration hearing, Detective Klemp falsely testified that he was certified by the State of Nevada Commission on Peace Officers Standards and Training as a Defense of Tactics instructor for the ASP expandable baton. Of course, Nevada POST does not certify instructors. When cross-examined by POA VP Michael Thomas regarding where and when he allegedly received such training, he claimed it occurred with the UNLV Police Department in 2006 or 2007. Inquiry was made of UNLV Assistant Chief of Police Sandy Seda who found that the only training Klemp received at UNLV during that time was a 40 hour Continuing Education course for "Arrest and Control".

These facts, and the supporting documentation, were provided to both CCSD Superintendent Pat Skorkowsky, and Chief of Police James Ketsaa by POA President Sergeant Anthony Russo on January 30, 2015. The POA specifically requested that the matter be investigated by an outside agency, such as the State of Nevada Department of Public Safety Office of Professional Responsibility, as Detective Klemp was effectively the Internal Affairs Bureau for the School District Police Department. A copy of that January 30, 2015 letter and the attached supporting documentation consisting of (1) the Blue Team records produced, (2) the Transcript of Klemp's testimony, (3) the complaint Blue Team records showing supervisory approval of the use of force, and (4) the correspondence by e-mail with Assistant Chief Sandy Seda, are contained within the binder of supporting documentation for this report.

Sergeant Russo was originally informed by Superintendent Skorkowsky that Metro would be conducting the requested investigation. However, no such internal investigation took

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place. Chief Ketsaa later told Russo that it was in fact turned over to the District's Legal Department, and not an outside agency.

It is believed that Detective Klemp's testimony in connection with the Jason Martin arbitration constitutes the crime of perjury in violation of NRS 199.145. Because Officer Martin was entitled pursuant to NRS 289.080(8) to "the entire file concerning the internal investigation, including, without limitation, any recordings, notes, transcripts of interviews and documents contained in the file", the intentional withholding of the exculpatory Blue Team records constitutes a violation of NRS 197.220 "Other violations by officers" and/or "Oppression under color of office" in violation of NRS 197.200. Fortunately, even without the benefit of the complete Blue Team records, arbitrator Michael Rappaport found that the use of force was within policy and consistent with *Graham v. Connor*.

Two (2) days after testifying falsely in the Jason Martin arbitration, on December 18, 2016 Detective Klemp leaked confidential information regarding an Internal Affairs investigation, and instructed the recipient of the leak to lie regarding the source under threat of Klemp using his position in Internal Affairs against the recipient.

In May of 2014 School District Officer Mike Marshall showed Lieutenant Dan Burgess the software by which he could access recordings of phone calls made by inmates at the Clark County Detention Center. To demonstrate how the software worked, Officer Marshall pulled up the telephone call made by one Burgess subordinate officers, John Maier, who had recently been arrested for DUI. This system is maintained by Century Link under contract with Clark County, and has been found to constitute a public record. See *Las Vegas Metropolitan Police Department v. Blackjack Bonding, Inc.*, 131 Nev. ___, 343 P.3d 608 (2015).

Unbeknownst to Detective Marshall, Lieutenant Burgess was one of a number of confidential human sources for the FBI within the School District Police Department. Among the other confidential sources providing information to the FBI over the years include recently retired Sergeant Erik Aldays, POA VP Officer Mike Thomas and John Maier.

These officers went to the FBI because of many instances of cover up and corruption in the Internal Affairs unit. This included a cover up of the fact that several employees of the Department, including members of the command staff, were present at a party and 2009 were underage drinking occurred. One (1) of the underage drinkers, Kevin Miranda, later got behind the wheel of the vehicle and killed UNLV student Angela Peterson. At least one (1) witness at the depositions taken in the related civil case identified (now) Chief of Police James Ketsaa as one of the people present at the party.

Burgess asked Marshall if he could download any telephone calls made by Kevin Miranda following his arrest for the vehicular homicide of Angela Peterson. Marshall did so, and Burgess obtained a copy to send to the FBI.

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By September of 2014, one of the recordings of Kevin Miranda's phone calls from CCDC, which confirmed the presence of at least one (1) Department employee at the 2009 party, was made public. A copy of this recording was obtained by Officer Mike Thomas from Angela Peterson's father.

On September 22, 2014 Officer Thomas sent the recording to Detective Klemp requesting that Internal Affairs properly investigate the issue of which Department Employees were present at the party prior to Angela Peterson's death. Instead of investigating the matter, Detective Klemp elected to pursue an investigation of Officer Marshall and Lieutenant Burgess for accessing the records. Both Officer Marshall and Lieutenant Burgess were interviewed in October 2014. In his October interview, Lieutenant Burgess informed Klemp that he had been working with the FBI as a source for a number of years. We have enclosed a copies of the only three (3) interviews in the case: Marshall, Burgess, and Mike Thomas.

On December 18, 2014 Detective Klemp called Officer John Maier and said he needed to talk to Maier about some matters both work-related and non-work-related. Maier and Klemp met at approximately 8:00 PM at a Starbucks at Rainbow and Warm Springs. Unbeknownst to Klemp, Officer Maier recorded the conversation because Maier, from his own prior experience, had no faith in the integrity of Internal Affairs, and had cooperated with the FBI. A copy of the December 18, 2014 recording, along with a transcript of the recording prepared by a court reporter, is enclosed.

As you are aware, Internal Affairs investigations are to remain confidential until they are completed. At every Police Department, including LVMPD, officers who are the subject of the investigation are given an admonishment that they may not talk about the investigation, or even disclose its existence, until the investigation is concluded.

Despite the fact that the Internal Affairs investigation of both Officer Marshall and Lieutenant Burgess was not complete (Transcript p. 32), at the meeting Detective Klemp informed John Maier that Marshall and Burgess had accessed his phone records, and falsely informed Maier that Marshall and Burgess "talked seriously derogatory shit" about him. (Transcript pp. 27-32). He further boasts the scope of his influence within the Department and clearly states a bias in connection with the investigation he was still conducting. He informed Maier that Burgess has a "hidden secret agenda" which violated the Department's trust and was "doing some things with the Department that are completely unacceptable". (Transcript pp. 33-34). This "secret agenda" Klemp references was a reference to cooperation with the FBI and the attempt to bring to light the Department's cover-up of the presence of Department employees at the party where Kevin Miranda was drinking underage.

Klemp informs Maier that if he (Maier) discloses the truth about how he learned that Marshall and Burgess accessed his phone record from CCDC, that Klemp will lie about the subject. On page 29 Klemp states "*I can't tell you shit I'm IA, and if you ever mention it again*

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am going to call you a fucking liar...” He even threatens to use his position in Internal Affairs stating on page 69 “And if something happens and I got [to] IA you... If you say anything about this... I’m going to call you a motherfucking liar. And I’ll come at you like a whirlwind because I have to protect myself.”

If (1) the disclosure of confidential information regarding an on-going Internal Affairs investigation, (2) statements of bias by Detective Klemp toward the officers he is currently investigating, and (3) instructing Officer Maier to lie under threats were not enough, Detective Klemp repeatedly attempted to have Officer Maier frame Mike Thomas and “the union” (a reference to the POA) for the disclosure to Maier. (Transcript at pp. 27, 70-71, 80-81).

Because Officer Maier would likely be called as a witness at any arbitration for the terminations of Officer Mike Marshall or Lieutenant Daniel Burgess, Klemp is attempting to suborn perjury by Officer Maier regarding the source of his knowledge in violation of NRS 199.150. His threats directed to Officer Maier should he tell the truth regarding the source of the disclosure constitute “Preventing or dissuading person from testifying or producing evidence” in violation of NRS 199.230, and “Intimidating [a] witness to influence testimony” in violation of NRS 199.240. Fortunately, Officer Maier provided Lieutenant Burgess with a copy of the recording and testified truthfully at the arbitration for Lieutenant Burgess on June 1, 2016.

Officer Mike Marshall resigned from the Department in January of 2015. Police Officers Association General Counsel Adam Levine tracked down Marshall in Colorado. In the enclosed document binder is the Declaration of former Officer Marshall detailing how Detective Klemp steered Officer Marshall away from representation by the Police Officers Association, and subsequently induced Marshall to resign based upon a promise to clean up his record and give him a good recommendation.

A promise to provide favorable treatment for not seeking or utilizing the assistance of his union constitutes a violation of NRS 614.090 which states that workers “shall be free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives”. NRS 614.110 makes a violation of NRS 614.090 a misdemeanor.

Based upon further information provided by Marshall after he executed his Declaration, the manner in which Klemp obtained his resignation was by telling Marshall that they were going to charge him with dishonesty because the interview of Lieutenant Burgess substantially contradicted what Marshall stated in his own interview. This was false as Lieutenant Burgess’ and Marshalls’ account of what transpired were consistent. You may confirm this by reviewing the copies of the transcripts which we are providing you.

However, Marshall could not run the risk of being labeled a *Brady* officer so as to prohibit his employment as a peace officer elsewhere. We are in the process of seeking a more detailed Declaration from Marshall and will provide it to you when it is received. If Detective

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Klemp did in fact make such false representations to secure the resignation of Officer Marshall, his actions would violate NRS 207.190 "Coercion" as well as "Oppression Under Color of Office" in violation of NRS 197.200.

If you review the Internal Affairs interview of Mike Marshall, you will see that the Internal Affairs investigation is # CR 2014-0053. A copy of the Investigative Report for CR 2014-0053 is contained in the binder supporting documentation. It clearly shows that Klemp did in fact take Marshall's name off as the "SUBJECT OF INVESTIGATION" leaving only "Lieutenant D. Burgess", and that no findings were made against Marshall. A copy of the promised letter of recommendation authored by Klemp, and signed by Chief Ketsaa are attached to the Declaration of Mike Marshall.

Despite his clear statements of bias against Officer Mike Thomas on the recording made by Officer Maier, Detective Klemp later conducted an Investigation of Mike Thomas causing him to be terminated for dishonesty for actions which were supervised and approved by two (2) separate Sergeants. (A copy of the Report of Investigation for Mike Thomas, and the documents reflecting approval by the Sergeants are also enclosed). Officer Thomas was not dishonest and an arbitration of this matter is soon to be scheduled. This action, along with his stated intent on the recording to seek the termination of Burgess before his investigation was even completed, constitutes "Oppression Under Color of Office" in violation of NRS 197.200.

Following Officer Maier's arbitration testimony on June 1, 2016 wherein he disclosed what Detective Klemp had done, the Police Officers Association's General Counsel Adam Levine sent an e-mail to District General Counsel Carlos McDade and Chief Ketsaa on behalf of Officer Terri Tibbets who has been placed on administrative leave pending his notice of an Internal Affairs investigation by Klemp. That e-mail objected to Klemp conducting any investigation.

The following day Klemp was reassigned to the Technical Standards Bureau by Chief Ketsaa. Every other Officer accused of any type of serious misconduct is placed on administrative leave pending the outcome of the investigation as was the case with Officer Tibbets. Reassigning Klemp appears to be one more attempt by the Chief to protect Detective Klemp.

As if all of this were not enough, we now have reason to believe that Detective Klemp was actually being paid extra money by the School District to conduct Internal Affairs investigations. Detective Klemp's wages are supposed to be governed by the Police Officers Association collective bargaining agreement which makes no provision for the payment of extra monies. A copy of the entry in Transparent Nevada for Detective Klemp is contained within the supporting documentation. Transparent Nevada shows that he was paid \$104,990.62 in 2015. As a Detective for whom the District pays into PERS Police/Fire, Klemp is a salary Range 31. Depending upon a number of years of the Department his rate of pay is between \$24.12 (starting) and \$33.28 (top out) per hour.

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Being paid additional monies (\$12,221.89 "other pay") to conduct Internal Affairs investigations, or being allowed to set your own overtime (\$33,432.73), would create a financial incentive for a Detective to skew an investigation in the manner which the Department wants. If he was in fact receiving additional monies, this could not occur without the knowledge and the consent of Chief Ketsaa. The secret financial arrangement, if true, likely constitutes "grafting" in violation of NRS 613.110, a gross misdemeanor. It also may constitute fraud on the taxpayers.

The District Attorney's Office is acutely aware of the problems created by a police officer who are dishonest in connection with their job. Colloquially known as "*Brady Cops*", the prosecutors of your Office refuse to prosecute cases where it may require such an officer to take the witness stand. It is inconceivable that a Detective responsible for Internal Affairs can be allowed to remain employed in any capacity after having withheld exculpatory Blue Team evidence in the Jason Martin case, lied about the contents of the Blue Team records, disclosed confidential information, and instructed other officers to lie regarding the disclosure under threat of retaliation.


Accordingly, the undersigned Officers are requesting that the District Attorney's Office investigate all of the above identified issues as required by NRS 289.110. Even if the statute of limitations will preclude prosecutions for actions which might be misdemeanors, these matters still need to be investigated, and findings made, with regard to the alleged misconduct. As a law enforcement agency, the integrity of the Department must be paramount, and the failure of Chief Ketsaa and Department to hold Detective Klemp accountable calls that integrity into question.

Because on the tape Detective Klemp boasts about the scope of his influence at the school district, and his relationship with the DOJ and FBI, a courtesy copy is being provided to the FBI's public integrity unit. If you wish to interview us in connection with your investigation, or get in touch with Mike Marshall, please contact POA General Counsel Adam Levine, Esq. at 702-386-0536.

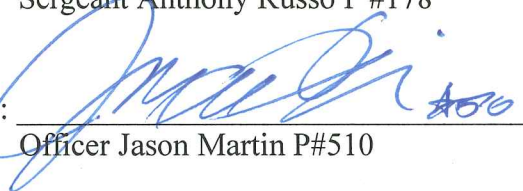
Very truly yours,

By: 
Lieutenant Daniel Burgess P#301

By: 
Officer Michael Thomas P #328

By: 
Sergeant Anthony Russo P #178

By: 
Officer John Maier P#388

By: 
Officer Jason Martin P#510